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# No Checks or Balances to Contra Policy

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The White House campaign to support the Nicaraguan *contras* not only promotes dubious policy; it also corrupts the constitutional rules for the making of foreign policy.

After five years of backing by the United States, there is no evidence that the *contras* are an effective foreign-policy tool. An inept force that is unable to dislodge the Sandinistas, the *contras* have systematically abused human rights and increased regional tensions. Continued military aid, despite the explicit opposition of eight major Latin countries, blocks a diplomatic solution to the conflict in Central America. Administration policy assures that even veteran negotiator Philip C. Habib can do little more than serve as a cosmetic device that is aimed at squeezing contra money from Congress.

Just as important as the policy abroad is the largely unnoticed constitutional struggle at home. The Administration's McCarthyite rhetoric—colored by Secretary of State George P. Shultz's casting of the coming congressional vote as a choice between "good guys" and "bad guys," and the President's dire warnings of a Central America that is "covered in a sea of red"—is merely the latest salvo in a presidential offensive against Congress' budget and war-making powers.

If Congress acquiesces to the President's request for \$100 million in aid to the *contras*, it will reward a mode of policy formulation based on illegal acts and a circumvention of congressional checks and balances, thereby ensuring that these tactics will be used in the future.

The Administration's flagrant violation of the law in its Central America policy can be amply documented. The War Powers Act of 1973 (which was passed in part in response to the illegal bombing of Cambodia) stipulates that Congress must be fully informed within 48 hours when U.S. forces are introduced into potentially hostile areas. Yet by early 1985 the American military had flown reconnaissance missions over Nicaraguan air space and Salvadoran battlefields, participated in naval-interdiction activities in the Gulf of Fonseca, was stationed in brigade headquarters in zones of conflict in El Salvador, and had come under fire in at least eight separate incidents. Congress was never informed about any of these actions.

The Boland Amendment, adopted in December, 1982, prohibited the use of funds "for the purpose of overthrowing the government of Nicaragua." For 2½ years, until the amendment lapsed, the Administration continued to finance the contra army while its leaders openly declared their intent to overthrow the Sandinistas.

The 1980 Intelligence Oversight Act obligates the Central Intelligence Agency

such as court judges, . . . police and state security officials."

In addition to violating the law the Administration consistently circumvented congressional spending restrictions. It built bases in Honduras, using funds that were earmarked for military maneuvers. The CIA charged expenses, such as the mining of Nicaragua's harbors, to its other accounts. An airfield for the *contras* also was built illegally in Honduras, using funds earmarked for Defense Department military exercises. The Pentagon also donated aircraft to transport supplies to contra bases and transferred ships, planes and guns to the CIA for use in Nicaragua with little or no charge. When Congress cut aid to the *contras* in late 1984, the White House then permitted a member of the National Security Council to help organize private funding for the rebels.

Vietnam and Watergate brought home the dangers of an imperial presidency—a Chief Executive who evades the authority of Congress and the courts, views himself above the law in foreign-policy matters, and uses secrecy and distortion to deceive other branches of government and the public in order to accomplish his policy objectives. Those difficult episodes in our history resulted in legislation such as the War Powers Act of 1973 to protect the democratic process from abuses of power.

Administration policy toward Nicaragua and the rest of Central America threatens to undo democratic safeguards at home by undermining these careful mechanisms of accountability. After systematically excluding Congress from the takeoff of an illegal and misguided contra policy, it now wants to strong-arm Congress into co-piloting its mission to disaster.

Congress' response should be clear and unequivocal. Both the contra policy and the imperial presidency are unacceptable. Its lawmakers should not support law breakers.

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"We been out winning the hearts and minds of the people.  
Jose got the hearts, and I got the heads."

to provide full and current reports of its activities to Congress. But the CIA failed to inform the intelligence-oversight committees of the mining of Nicaragua's harbors until a full six weeks after the initial detonation—even though such activities constitute an international act of war.

In a 1981 executive order President Reagan prohibited the involvement of any U.S. agency in assassinations. However, the order was violated by the CIA's operations manual for Nicaraguan *contras*, which gave instructions "to neutralize carefully selected and planned targets,